THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.467 OF 2006

DATED:6.1.2006

Between:

Toddy Tappers Cooperative Society,

Domakonda Village and Mandal, Nizamabad District

Rep. by its President Mr. T.Sudarshan Goud

S/o.Bala Goud

…Petitioner

And

The Prohibition and Excise Superintendent

Kamareddy, Nizamabad District and another

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.467 OF 2006

ORDER:

Toddy Tappers Cooperative Society, Domakonda, in Nizamabad District, assails the proceedings dt.31.12.2005 of the Deputy Commissioner of Prohibition and Excise, second respondent herein, confirming the orders of first respondent dt.16.11.2005. Be it noted by orders dt.16.11.2005 first respondent suspended the licence of the petitioner society for alleged adulteration of toddy with chloral hydrate.

The short fact of the matter is as follows. On 11.11.2005, Prohibition and Excise Officer, Domakonda, inspected the toddy shop No.1 of the petitioner and tested toddy sample. It was allegedly found to have been adulterated with chloral hydrate. Therefore, a crime being Crime No.119/2005-2006 under Section 37(a) of the

A.P.Excise Act, 1968 (for short, the Act) was registered by the Station House Officer (SHO), Domakonda. On the same day, the same officer and special task force authority inspected the toddy depot of Domakonda and tested toddy when it was allegedly found that it was adulterated with chloral hydrate. Again, a crime being Crime No.120/2005-2006 was registered under Section 37(a) of the Act by the SHO. A report was submitted to the first respondent who by proceedings dt.16.11.2005 came to a *prima facie* conclusion that the petitioner violated the provisions of the Act by indulging in adulteration of toddy with chloral hydrate which is a punishable offence and accordingly suspended the licence pending further enquiry. Aggrieved by the same, the petitioner preferred appeal under Section 63(1) of the Act before the second respondent who by proceedings dt.31.12.2005 confirmed the orders of suspension.

In this writ petition, learned counsel for the petitioner placed reliance on the judgment of this Court in **T.Laxma Goud v. Excise Superintendent, Adilabad** in support of the submission that when the shop No.1 was inspected, cancellation of licence in respect of all four shops for which the petitioner was granted licence is illegal and unauthorized. He placed reliance on Section 31(1)(b) of the Act as well as the four different shops, namely Domakonda shop Nos.1 to 4 as well as licence for establishment of shop in support of the contention that licences are separate and for alleged adulteration of toddy in one shop, all the licences cannot be suspended.

A perusal of the licence for establishment of toddy depot bearing Licence No.A/TDL/7/2005 dt.1.10.2005 would show that the same enables the petitioner society to establish a toddy depot at premises No.8-49 of Domakonda for storage and supply of toddy for the constituent shops of his group. These group shops are shown in the licence as shop Nos.1 to 4. This only shows that the toddy at the depot of the petitioner situated at Domakonda is supplied to all the four shops. If the toddy at the depot was found to be allegedly adulterated, there is no infirmity in arriving at a *prima facie* conclusion by the first respondent that offence under Section 37(a) of the Act is made out. It is not the case where four shops are independently storing the toddy. The toddy sold in four shops is presumably comes from the toddy depot and in that view of the matter, no infirmity can be drawn in favour of petitioner. Secondly, the decision in **T.Laxma Goud v. Excise Superintendent, Adilabad** (supra) is a case where adulterated toddy was seized from one shop, but the licence of two shops were cancelled and therefore this Court held that the cancellation of licence is arbitrary. In this case, the facts are altogether different.

It is brought to the notice of this Court that a further appeal would lie to Commissioner of Prohibition and Excise under Section 63(2) of the Act. Liberty is therefore given to petitioner society to avail the same. As and when such appeal is filed, the Commissioner may entertain the appeal and pass appropriate orders in accordance with law without in any manner being influenced by the observations made in this order.

The Writ Petition with the above observations is accordingly dismissed.

6.1.2006 (V.V.S.RAO, J)

bnr

NOTE: Issue CC in one week.

(B.O)

bnr